

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	
PETITION OF PETER T.	§	No. 133, 2011
KOSTYSHYN FOR A WRIT OF	§	
MANDAMUS.	§	

Submitted: March 29, 2011

Decided: April 26, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

**ORDER**

This 26<sup>th</sup> day of April 2011, upon consideration of the petition for a writ of mandamus filed by Peter T. Kostyshyn and the answer and motion to dismiss filed by the State of Delaware,<sup>1</sup> it appears to the Court that:

(1) The petitioner, Peter T. Kostyshyn, has filed a petition for a writ of mandamus to be directed to the Superior Court in three cases. One case concerns Kostyshyn's sister's conviction in the Court of Common Pleas.<sup>2</sup> Another case concerns the Court of Common Pleas' dismissal of a disorderly conduct charge brought against Kostyshyn.<sup>3</sup> The third case concerns the Superior Court's dismissal of Kostyshyn's appeal from his

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<sup>1</sup> The Court has not considered Kostyshyn's April 8 and April 13 responses to the State's answer and motion to dismiss. *See* Del. Supr. Ct. R. 43(b)(ii) (providing that, other than an answer, including any affirmative defense or motion seeking dismissal, to a complaint in an extraordinary writ proceeding, "no further submissions of the parties shall be accepted").

<sup>2</sup> *State v. Patricia Kostyshyn*, Del. Com. Pl., Cr. ID No. 0902010157.

<sup>3</sup> *See* docket, *State v. Peter Kostyshyn*, Del. Com. Pl., Cr. ID No. 0906007625, (Mar. 31, 2011) (noting *nolle prosequi* entered by attorney general on February 18, 2011).

conviction in the Court of Common Pleas.<sup>4</sup> In all of the cases, Kostyshyn seeks relief from an alleged conspiracy within the criminal justice system to deprive him and his sister of due process of law.

(2) This Court will issue a writ of mandamus only if the petitioner can show that he or she had a clear right to the performance of a duty, no other adequate remedy, and that the Superior Court has arbitrarily failed or required to perform the duty.<sup>5</sup> Kostyshyn has not demonstrated a basis for mandamus relief with respect to any of the cases referred to in his petition.

NOW, THEREFORE, IT IS ORDERED that the State's motion to dismiss is GRANTED. Kostyshyn's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>4</sup> See docket at 17, *State v. Peter Kostyshyn*, Del. Super., Cr. ID No. 0902010151, Feb. 10, 2011) (order dismissing).

<sup>5</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).